

ORIGINAL

Congress of the United States

House of Representatives

106th Congress

Committee on Small Business

2361 Rayburn House Office Building

Washington, DC 20515-6515

August 15, 2000

EX PARTE OR LATE FILED

RECEIVED

AUG 18 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

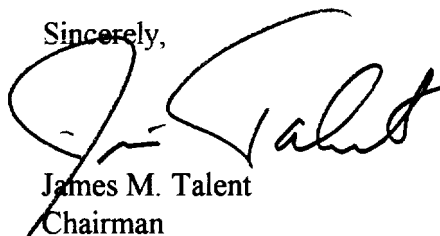
Ms. Magalie Roman-Salas
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, DC 20554

**RE: Amendment of Part 15 of the Commission's Rules Regarding
Spread Spectrum Devices, ET Docket No. 99-231, *Ex Parte* Filing**

Dear Ms. Roman Salas:

Pursuant to § 1.1206 of the Commission's rules, please find two copies of an ex parte written communication in the above-referenced docket. Copies of the enclosed letter also have been submitted via telefacsimile to the following Commission staff: Mr. Clint Odom of Chairman Kennard's Office, Mr. Mark Schneider of Commissioner Ness' Office, Mr. Bryan Tramont of Commissioner Furchtgott-Roth's Office, Mr. Peter Tenhula of Commissioner Powell's Office, Mr. Adam Krinsky of Commissioner Tristani's Office, Mr. Eric Malinen of the Office of Communication Business Opportunities, Mr. Christopher Wright, Office of the General Counsel, and Ms. Sheryl J. Wilkerson, Office of Legislative and Intergovernmental Affairs. Please direct any questions concerning this filing to Barry Pineles of the Committee staff at 202-225-5821.

Sincerely,



James M. Talent
Chairman

Enclosures

No. of Copies rec'd 07
List ABCDE

Congress of the United States

House of Representatives

106th Congress

Committee on Small Business

2561 Rayburn House Office Building

Washington, DC 20515-6515

RECEIVED

AUG 18 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

August 15, 2000

Hon. William Kennard
Chairman
Federal Communications Commission
445 12th Street, S.W., Room 814
Washington, DC 20554

**RE: Amendment of Part 15 of the Commission's Rules Regarding
Spread Spectrum Devices, ET Docket No. 99-231, *Ex Parte* Filing**

Dear Chairman Kennard:

On July 20, 1999, the Commission published a notice of proposed rulemaking in the above-captioned docket to revise the regulations governing certain spectrum allocated to use by Part 15 wireless devices. Specifically, the Commission proposed to modify 2.4 GHz band to permit further development of wireless computer networking equipment commonly targeted to small office and home office users. On August 8, 2000, Senators Bond and Kerry submitted an *ex parte* communication criticizing the Commission's compliance with the Regulatory Flexibility Act. Having reviewed the notice, the initial regulatory flexibility analysis, and a copy of the letter from Senators Bond and Kerry, I concur with their conclusion that the Commission did not comply with the Regulatory Flexibility Act and should withhold finalizing any modifications proposed in the notice until an acceptable and appropriate initial regulatory flexibility analysis is conducted and published.

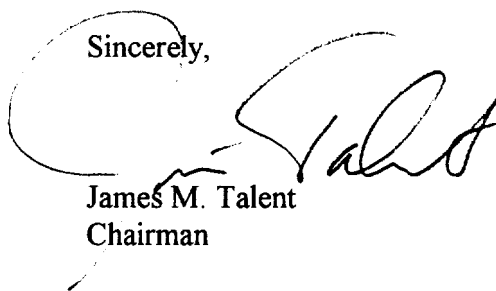
I agree with Senators Bond and Kerry that the initial regulatory flexibility analysis should accurately describe the impact on all small businesses including those businesses which manufacture Part 15 devices and those businesses that currently utilize Part 15 devices.¹ Without such an assessment, the Commission will not be able to properly assess

¹ Owners of Part 15 devices are subject to Commission jurisdiction and must correct any undue interference created by their operation of such devices. *E.g., In the Matter of Amendment of Part 15 of the Commission's Rules to Permit Operation of Biomedical Telemetry Devices on VHF TV Channels 7-13 and on UHF TV Channels 14-46*, ET Docket No. 95-177, Report and Order, 12 FCC Rcd 17,828, 17,840 (1997); *In the Matter of Amendment of Part 90 of the Commission's Rules to Adopt Regulations for*

the costs and benefits of modifying use of the 2.4 GHz band for Part 15 devices. More importantly, the lack of an appropriate regulatory flexibility analysis may prevent the Commission from finding an alternative that accommodates existing uses while enabling new uses of the 2.4 GHz band for wireless home networking.² My concern for proper analysis of the impacts of the proposed rule on small business and the Commission's compliance with rulemaking procedures mandated by Congress should not be interpreted as supporting the position of any party in this proceeding concerning the interference claims made in this docket.

I am asking that you provide me with a copy of the revised initial regulatory flexibility analysis that meets the requirement of the Regulatory Flexibility Act prior to moving forward with this rulemaking, and ask that you submit it to the Committee no later than September 15, 2000. Pursuant to the rules of the Commission, two copies of this *ex parte* filing shall be submitted to the Secretary for inclusion in the docket. Should you have any questions, please contact Barry Pineles of the Committee staff at (202) 225-5821.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Talent", is written over the typed name and title.

James M. Talent
Chairman

cc: Hon. Harold Furchtgott-Roth, Commissioner
Hon. Susan Ness, Commissioner
Hon. Michael Powell, Commissioner
Hon. Gloria Tristani, Commissioner

Automatic Vehicle Monitoring Systems, PR Docket No. 93-61, Report and Order, 10 FCC Rcd 4695, 4714 (1995).

² The Commission often has sought solutions which permit multiple uses of the same frequency bands. *E.g.*, *In the Matter of Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, To Establish Rule and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services*, CC Docket No. 92-297, 11 FCC Rcd 19,005 (1996).